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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/621,512	07/18/2003	Holger Jessen	R 303200	1177
7590	09/27/2005		EXAMINER	
Walter Ottesen Patent Attorney P.O. Box 4026 Gaithersburg, MD 20885-4026			ARTHUR JEANGLAUME, GERTRUDE	
			ART UNIT	PAPER NUMBER
			3661	

DATE MAILED: 09/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/621,512	JESSEN, HOLGER
	<b>Examiner</b>	<b>Art Unit</b>
	Gertrude Arthur-Jeanglaude	3661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 17 June 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-18 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 06 January 2005 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
     Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
     Paper No(s)/Mail Date. \_\_\_\_\_ .
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Response to Amendment/Argument***

The remark filed therewith on June 17, 2005 have been considered meticulously by the examiner.

However, Applicant's representative argues that the Homeyer reference "does not disclose every element of the claimed invention as required for rejection under 35 U.S.C. 102 (e) at page 6 of the argument. Applicant's representative, all throughout the response/remarks, explains what the reference Homeyer et al. teach but does not specifically point out what element of the claimed invention that seems to be missing in the prior art.

As pointed on page 9, Applicant's representative quoted for claim 1, "forming a desired value which considers said desired value input quantities in a sequence of their priorities." (emphasis added).

Applicant's representative is aware that the desired value takes place on the basis of maximum and minimum value selection stages (col. 6, lines 35 to 55). Which is reasonably considered as a sequence of their priorities. Therefore, claims 1-18 remain rejected under Homeyer until proven what the specific missing elements of the claimed invention are.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-18 are rejected under 35 U.S.C. 102(e) as being anticipated by Homeyer et al. (U.S. Patent No. 6,842,686).

Homeyer et al discloses a method and device for controlling the drive unit of a vehicle by adjusting an output quantity of the drive unit in dependence upon desired input quantities (abstract, figure 1, column 2). According to Homeyer et al, the adjustment (e.g., control) of the output quantity is performed by forming a desired value which considers the desired value input quantities in a sequence of their priorities (column 3). Note that the priority may be based, for example, on actuating time.

Homeyer et al further discloses that the desired input quantities are considered starting with the quantity having the lowest quantity, for example the smallest actuating time. See column 3. In column 4, Homeyer et al discloses coupling (or assigning) different priorities to the desired input quantities (lines 19-28). See also column 5. Homeyer et al discloses in column 6 that the priority is fixedly or permanently assigned to each of the desired input quantities. Moreover, in column 5, Homeyer et al discloses that the priority is variably assigned to the each one of the desired input quantities and that the priorities are assigned upon the operating state of the vehicle (lines 10-15). See also column 6. As described in the abstract and columns 2- 3, in particular, Homeyer et al discloses that different types of desired input quantities are considered by different modules and desired input quantities of the same type are considered by a single module for forming

the desired value. The desired value, according to Homeyer et al, can be a desired torque (column 3, 6). As described in column 7, the desired input quantities limit the desired value by an additive (or maximum) amount.

***Response to Arguments***

Applicant's arguments filed June 17, 2005 have been fully considered but they are not persuasive. See above arguments.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gertrude Arthur-Jeanglaude whose telephone number is (571) 272-6954. The examiner can normally be reached on Monday-Friday from 8:30 a.m. to 6:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Black can be reached on (571) 272-6956. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

GAJ

*GAJ*

September 16, 2005

*Gertrude A. Jeanglaude*  
GERTRUDE A. JEANGLAUME  
PRIMARY EXAMINER